

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1097

Citations Affected: IC 14-33-5; IC 16-41-37.5; IC 36-9.

Synopsis: Various environmental matters. Proposed conference committee report for EHB 1097. Provides that, beginning September 1, 2009, if a campground in a conservancy district is billed for sewage service at a flat rate, the campground may instead elect to be billed for the sewage service by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. Requires the state department of health (SDOH) to adopt rules concerning indoor air quality in schools and state agencies. Provides that after the SDOH inspects a school or state agency for indoor air quality as the result of a complaint, the SDOH must report certain information. Provides that such a complaint must be in writing and may be made by electronic mail. Allows the SDOH to release the name of a complainant only if the complainant has authorized the release in writing. Requires the SDOH to post minutes of each meeting of the air quality panel on the SDOH web site not later than 45 days after the meeting. Requires the SDOH to: (1) distribute a manual of best practices for managing indoor air quality at schools and allows SDOH to use a manual developed by other states and federal health and environmental agencies; and (2) review and revise the manual at least once every three years. Provides that, after June 30, 2009, if the SDOH amends the rules concerning health and safety requirements for school buildings and school sites, the SDOH must consider the effects of outdoor air quality when establishing criteria for school siting. Authorizes a board of sanitation commission or a board of public works to: (1) provide financial assistance for the installation of certain sewage works in private dwellings; and (2) establish a user fee to pay for the financial assistance. **(This conference committee report: (1) adds provisions concerning campgrounds and sewage service rates; (2) adds the provision requiring the air quality panel to assist the SDOH in adopting indoor air quality rules; (3) adds the provision concerning amendment by the SDOH of rules concerning school buildings and school sites and outdoor air quality; (4) deletes the provision requiring the department of education to consider adoption of indoor air quality rules adopted by the SDOH; and (5) adds provisions concerning providing financial assistance for the installation of certain sewage works.)**

Effective: Upon passage; July 1, 2009.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1097 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning the
- 3 environment.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 14-33-5-21 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board
- 7 issues revenue bonds for the collection, treatment, and disposal of
- 8 sewage and liquid waste, the board may do the following:
- 9 (1) **Subject to sections 21.1 and 21.2 of this chapter**, establish
- 10 just and equitable rates and charges and use the same basis for the
- 11 rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
- 12 (2) Collect and enforce the rates, beginning with the
- 13 commencement of construction as provided in IC 36-9-23.
- 14 (3) Establish rules and regulations.
- 15 (4) Require connection to the board's sewer system of any
- 16 property producing sewage or similar waste and require
- 17 discontinuance of use of privies, cesspools, septic tanks, and
- 18 similar structures. The board may enforce this requirement by
- 19 civil action in circuit or superior court as provided in
- 20 IC 36-9-23-30.
- 21 (5) Provide for and collect a connection charge to the board's
- 22 sewer system as provided in IC 36-9-23-25 through

IC 36-9-23-29.

(6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.

(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.

(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.

(9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 2. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's

expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

SECTION 3. IC 14-33-5-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

(1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and

(2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and

1 copying in the office of the commission during regular business
2 hours under IC 5-14-3.

3 (h) The commission may adopt rules under IC 4-22-2 to
4 implement this section.

5 SECTION 4. IC 16-41-37.5-2, AS AMENDED BY P.L.79-2008,
6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2009]: Sec. 2. (a) The state department ~~may~~ **shall before July**
8 **1, 2010:**

9 (1) adopt rules under IC 4-22-2 to establish an indoor air quality
10 inspection, and evaluation, and employee notification program
11 to assist schools and state agencies in developing plans to
12 improve improving indoor air quality; and

13 (2) amend 410 IAC 6-5.1 or adopt new rules under IC 4-22-2
14 to do the following:

15 (A) Establish an indoor air quality inspection, evaluation,
16 and parent and employee notification program to assist
17 schools in improving indoor air quality.

18 (B) Establish best practices to assure healthful indoor air
19 quality in schools.

20 (b) Subject to subsection (c), the state department shall:

21 (1) inspect a school or state agency if the state department
22 receives a complaint about the quality of air in the school or state
23 agency;

24 (2) prepare a report, which may be in letter form, that:

25 (A) describes the state department's inspection findings;

26 (B) identifies any conditions that are contributing or could
27 contribute to poor indoor air quality at the school or state
28 agency, including:

29 (i) carbon dioxide levels;

30 (ii) humidity;

31 (iii) evidence of mold or water damage; and

32 (iv) excess dust;

33 (C) provides guidance on steps the school or state agency
34 should take to address any issues; and

35 (D) requests a response from the school or state agency not
36 later than sixty (60) days after the date of the report;

37 ~~(2)~~ (3) report the results of the inspection to:

38 (A) the person who complained about the quality of air;

39 (B) the school's principal or the state agency head;

40 (C) the superintendent of the school corporation, if the school
41 is part of a school corporation;

42 (D) the Indiana state board of education, if the school is a
43 public school or an accredited nonpublic school;

44 (E) the Indiana department of administration, if the inspected
45 entity is a state agency; and

46 (F) the appropriate local or county board of health; and

47 ~~(3)~~ (4) assist the school or state agency in developing a reasonable
48 plan to improve air quality conditions found in the inspection.

49 (c) A complaint referred to in subsection (b)(1):

50 (1) must be in writing; and

51 (2) may be made by electronic mail.

(d) The state department may release the name of a person who files a complaint referred to in subsection (b)(1) only if the person has authorized the release in writing.

SECTION 5. IC 16-41-37.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) Before July 1, 2010, the state department shall distribute a manual of best practices for managing indoor air quality at schools as described in this section. The state department may use a manual on indoor air quality in schools developed by a federal health or environmental agency or another state and make additions or revisions to the manual, with the input and advice of the air quality panel established by section 3 of this chapter, to make the manual most useful to Indiana schools. The state department shall provide the manual:**

(1) to:

(A) the legislative council; and

(B) the department of education;

in an electronic format under IC 5-14-6; and

(2) to the facilities manager and superintendent of each school corporation.

(b) The department shall review and revise the manual developed under subsection (a) at least once every three (3) years to assure that the manual continues to represent best practices available to schools.

SECTION 6. IC 16-41-37.5-3, AS AMENDED BY P.L.79-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. (a) The air quality panel is established to assist the state department in carrying out this chapter.**

(b) The panel consists of the following members:

(1) A representative of the state department, appointed by the commissioner of the state department.

(2) A representative of the department of education, appointed by the state superintendent of public instruction.

(3) A representative of the Indiana department of administration, appointed by the commissioner of the Indiana department of administration.

(4) A member of the governing body of a school corporation, appointed by the state superintendent of public instruction.

(5) A teacher licensed under IC 20-28-4 or IC 20-28-5, appointed by the governor.

(6) A representative of a statewide parent organization, appointed by the state superintendent of public instruction.

(7) A physician who has experience in indoor air quality issues, appointed by the commissioner of the state department.

(8) An individual with training and experience in occupational safety and health, appointed by the commissioner of the department of labor.

(9) A mechanical engineer with experience in building ventilation system design, appointed by the governor.

(10) A building contractor with experience in air flow systems who is a member of a national association that specializes in air

flow systems, appointed by the governor.

(11) A member of a labor organization whose members install, service, evaluate, and balance heating, ventilation, and air conditioning equipment, appointed by the governor.

(12) An individual with experience in the cleaning and maintenance of commercial facilities, appointed by the governor.

(c) The chairperson of the panel shall be the representative of the state department.

(d) The panel shall convene **at least twice annually** at the discretion of the chairperson.

(e) The state department shall post minutes of each meeting of the panel on the state department's web site not later than forty-five (45) days after the meeting.

~~(e)~~ **(f)** The state department shall provide administrative support for the panel.

~~(f)~~ **(g)** The panel shall:

(1) identify and make available to schools and state agencies best operating practices for indoor air quality; ~~and~~

(2) assist the state department in developing plans to improve air quality conditions found in inspections under section 2 of this chapter; ~~and~~

(3) assist the state department in adopting rules under section 2 of this chapter.

~~(g)~~ **(h)** The state department shall prepare and make available to the public an annual report describing the panel's actions.

SECTION 7. IC 16-41-37.5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. After June 30, 2009, if the department amends 410 IAC 6-5.1 concerning school buildings and school sites, the department shall consider the effects of outdoor air quality when establishing criteria for school siting.**

SECTION 8. IC 36-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. "Improvement" includes the construction, equipment, remodeling, extension, repair, and betterment of structures, including:

(1) sanitary sewers and sanitary sewer tap-ins;

(2) sidewalks;

(3) curbs;

(4) streets;

(5) alleys;

(6) pedestrian-ways or malls set aside entirely or partly, or during restricted hours, for pedestrian rather than vehicular traffic;

(7) other paved public places;

(8) parking facilities;

(9) lighting;

(10) electric signals;

(11) landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gaslighting, and structures of a decorative, educational, or historical nature; ~~and~~

(12) for units that own and operate a water utility, water main extensions from the water utility; **and**

(13) for units that establish and operate a department of public sanitation under IC 36-9-25, sewage works that are:

(A) overhead plumbing or backflow prevention devices;

(B) installed in private dwellings; and

(C) financed in whole or in part through assistance provided under IC 36-9-25-42.

SECTION 9. IC 36-9-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Sewage works" means:

(1) sewage treatment plants;

(2) intercepting sewers;

(3) main sewers;

(4) submain sewers;

(5) local sewers;

(6) lateral sewers;

(7) outfall sewers;

(8) storm sewers;

(9) force mains;

(10) pumping stations;

(11) ejector stations; ~~and~~

(12) any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality; **and**

(13) for purposes of IC 36-9-25, overhead plumbing or backflow prevention devices that are financed in whole or in part through assistance provided under IC 36-9-25-42.

SECTION 10. IC 36-9-25-11, AS AMENDED BY P.L.175-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) In connection with its duties, the board may fix fees for the treatment and disposal of sewage and other waste discharged into the sewerage system, collect the fees, and establish and enforce rules governing the furnishing of and payment for sewage treatment and disposal service. The fees must be just and equitable and shall be paid by any user of the sewage works and the owner of every lot, parcel of real property, or building that is connected with and uses the sewage works of the district by or through any part of the sewerage system. This section applies to owners of property that is partially or wholly exempt from taxation, as well as owners of property subject to full taxation.

(b) The board may change fees from time to time. The fees, together with the taxes levied under this chapter, must at all times be sufficient to produce revenues sufficient to pay operation, maintenance, and administrative expenses, to pay the principal and interest on bonds as they become due and payable, and to provide money for the revolving fund authorized by this chapter.

(c) Fees may not be established until a public hearing has been held at which all the users of the sewage works and owners of property served or to be served by the works, including interested parties, have had an opportunity to be heard concerning the proposed fees. After introduction of the resolution fixing fees, and before they are finally adopted, notice of the hearing setting forth the proposed schedule of

fees shall be given by publication in accordance with IC 5-3-1. After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect. However, fees related to property that is subject to full taxation do not take effect until they have been approved by ordinance of the municipal legislative body or, in the case of a district described in section 3(b)(2) of this chapter, under section 11.3 of this chapter.

(d) A copy of the schedule of the fees shall be kept on file in the office of the board and must be open to inspection by all interested parties. The fees established for any class of users or property served shall be extended to cover any additional premises thereafter served that fall within the same class, without the necessity of hearing or notice.

(e) A change of fees may be made in the same manner as fees were originally established. However, if a change is made substantially pro rata for all classes of service, hearing or notice is not required, but approval of the change by ordinance of the municipal legislative body is required, and, in the case of a district described in section 3(b)(2) of this chapter, approval under section 11.3 of this chapter is required.

(f) If a fee established is not paid within thirty (30) days after it is due, the amount, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the board from the delinquent user or owner of the property served in a civil action in the name of the municipality.

(g) Fees assessed against real property under this section also constitute a lien against the property assessed. The lien attaches at the time of the filing of the notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) In addition to the penalties under subsections (f) and (g) and section 11.5 of this chapter, a delinquent user may not discharge water into the public sewers and may have the property disconnected from the public sewers.

(j) The authority to establish a user fee under this section includes fees to recover the cost of construction of sewage works from industrial users as defined and required under federal statute or rule. Any industrial users' cost recovery fees may become a lien upon the real property and shall be collected in the manner provided by law. In addition, the imposition of the fees, the use of the amounts collected, and the criteria for the fees must be consistent with the regulations of the federal Environmental Protection Agency.

(k) The authority to establish a user fee under this section includes fees to recover the costs associated with providing financial assistance under section 42 of this chapter. A fee that is:

- (1) established under this subsection or any other law; and**
- (2) used to provide financial assistance under section 42 of this**

chapter;
is considered just and equitable if the project for which the financial assistance is provided otherwise complies with the requirements of this chapter.

SECTION 11. IC 36-9-25-42 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 42. (a) The board may adopt a resolution authorizing the board to provide financial assistance, including grants, to property owners to construct or install regulating devices, improvements, or overhead plumbing or backflow prevention devices for one (1) or more of the following purposes:

- (1) To regulate or prevent discharge into private dwellings.
- (2) To prevent the pollution of streams or bodies of water.
- (3) To reduce or ameliorate inflow and infiltration in sewage works.
- (4) To remedy or prevent a menace to the public health and welfare.

(b) A resolution adopted by the board under subsection (a) must do the following:

- (1) State that provided financial assistance as described in subsection (a) will accomplish one (1) or more of the purposes listed in subsection (a)(1) through (a)(4).
- (2) State that the board anticipates that the costs associated with providing the financial assistance will be less than the financial burdens potentially incurred if the financial assistance is not provided.
- (3) Find that providing financial assistance as described in subsection (a) is necessary to avoid or reduce additional financial burdens.
- (4) Establish rules and regulations concerning financial assistance provided under subsection (a). A rule or regulation must provide that:

- (A) a grant or other financial assistance provided by the board may not exceed eighty percent (80%); and
- (B) the property owner that receives the financial assistance must pay for at least twenty percent (20%); of the total anticipated cost of the project for which the financial assistance is provided.

SECTION 12. An emergency is declared for this act.

(Reference is to EHB 1097 as printed April 1, 2009.)

Conference Committee Report
on
Engrossed House Bill 1097

Signed by:

Representative Barnes
Chairperson

Senator Gard

Representative Wolkins

Senator Breaux

House Conferees

Senate Conferees